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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,595	01/13/2006	Ulrich Hardebusch	079794.0108	2053
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BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039				
EXAMINER				
DABNEY, PHYLESHA LARVINA				
ART UNIT		PAPER NUMBER		
2614				
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05/22/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/564,595

**Applicant(s)**

HARDEBUSCH ET AL.

**Examiner**

PHYLESHA DABNEY

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to the Application received on 6 May 2009 in which claims 1-10 were cancelled, claims 11-27 are pending.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the details of claims 1-27 as argued in the Applicant's Response dated May 6, 2009. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **11-15, 17-20, 23-27** are rejected under 35 U.S.C. 102(b) as being anticipated by Clark (U.S. Patent No. 6,134,336).

Regarding claims 11, Clark teaches an acoustic converter for a portable device, comprising: a housing (102), comprising a membrane rear volume (202); an opening structure (204, 205, 208, 210), located on the membrane rear volume; internal walls (fig. 5; at 502, 504, 506) located on a rear wall of the device, wherein the internal walls form an acoustic channel through which sound is directed to the opening structure; and an acoustical blocking element (412, 426, 428), located over the opening structure, wherein the acoustical blocking element forms an acoustic seal between the opening structure and the rear wall.

Regarding claim 12, Clark teaches the acoustic converter according to claim 6, wherein the portable device is a telephone (fig. 1).

Regarding claim 13, Clark teaches the acoustic converter according to claim 6, wherein the internal walls comprise at least a single layer (fig. 5).

Regarding claims 14 and 25, Clark teaches the acoustic converter according to claim 6, wherein the internal walls are formed concentrically (figs. 2 and 5).

Regarding claim 15, Clark teaches a telephone handset with a standard wideband acoustic converter for making acoustic signals audible, wherein in a rear wall of a housing of the acoustic converter, a member rear volume (202) of the acoustic converter includes openings (204, 205, 208, 210) opening towards the outside of the acoustic converter; wherein a rear housing part of the telephone handset includes internal walls (fig. 5; at 502, 504, 506) forming a channel around the openings of the rear wall of the housing of the acoustic converter through which an area up to the rear housing part of the telephone handset is sealed in a soundproof manner; and wherein openings (204, 205, 208, 210) of the telephone handset are arranged in the rear housing part in an area within the internal walls surrounding the openings in the rear wall of the housing of the acoustic converter forming a channel for sound to escape to the outside of the telephone handset.

Regarding claim 17, Clark teaches the telephone handset according to Claim 15, wherein the telephone handset is cordless (fig. 2).

Regarding claim 18, Clark teaches the telephone handset according to Claim 15, wherein the internal walls (fig. 5; at 502, 504, 506) of the telephone handset forming the channel are embodied as at least a single layer (fig. 5).

Regarding claim 19, Clark teaches the telephone handset according to Claim 15, wherein the internal walls (fig. 5; at 502, 504, 506) of the telephone handset forming the channel are embodied concentrically.

Regarding claim 20, Clark teaches the telephone handset according to Claim 15, wherein the transition from free ends of the internal walls (fig.5) forming the channel of the rear housing part of the telephone handset to the rear wall of the housing of the acoustic converter is sealed in a soundproof manner by additional material (412).

Regarding claim 23 and 27, Clark teaches the telephone handset according to Claim 15, wherein the acoustic converter is an earpiece which is arranged between a lower shell of the telephone handset and an upper shell of the telephone handset the upper shell forming the rear housing part (fig. 1).

Regarding claim 24, Clark teaches the telephone handset according to Claim 15, wherein the acoustic converter has a wideband transmission range from about 160 Hz to about 6.3 kHz (figs. 11-12).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **16-17** and **21-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark.

Regarding claim 16, Clark does not specifically teach the telephone handset according to Claim 15, wherein the telephone handset is corded. However, the Examiner takes official notice that it is known to connect a cord to a telephone handset of the type described by Clark to provide charging/power to the unit and simultaneously allow use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cord with the invention of Clark for the reasons stated.

Regarding claims 21-22, 27, although Clark teaches providing additional ring shaped sealing material (412, 726) which could be any suitable material (col. 7 lines 17-20; col. 8 lines 36-38), Clark does not specifically teach using foam plastic material. However, the Examiner takes official notice that it is known to use felt, foam, or any suitable material to seal an earphone, and thus provide acoustic damping. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to utilize any known material in the invention of Clark to provide a ring-shaped seal and thus provide acoustic impedance.

### ***Response to Arguments***

Applicant's arguments filed have been fully considered but they are not persuasive.

With respect to the Applicant's argument that Clark fails to teach the Applicant's invention, the Examiner disagrees.

As per the Applicant's drawing Figure 2, the openings, blocking member, and internal walls are formed behind the speaker. Clark clearly teaches an openings (204, 205, 208, 210), acoustic blocking member (412, 426, 428), internal walls (fig. 5; at 502, 504, 506) located behind the speaker at the rear of the housing (102, 113). Therefore, the rejection is maintained.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Erhard Michaelis (U.S. Patent No. 3586794) teaches foam or felt being used for acoustic damping of a speaker (fig. 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHYLESHA DABNEY whose telephone number is

(571)272-7494. The examiner can normally be reached on Monday through Thursday 9:00-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
P O Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

**Hand-delivered responses should be brought to:**

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

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May 19, 2009

/PHYLESHA DABNEY/

Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614